

ADULT FOSTER CARE LICENSING ADVISORY COUNCIL MEETING MINUTES

May 21, 2008

MEMBERS PRESENT

Lacey Charboneau, Cynthia Farrell, Ellen Sugrue-Hyman, Phillip Lancaster, Linda Lawther, Paul McClain, Kathleen Murphy, Brian Sabourin, Lauren Swanson

MEMBERS ABSENT

Andrew Farmer, David Herbel

ADULT FOSTER CARE/HOME FOR THE AGED LICENSING STAFF

Deborah Wood, Division Director,
Tom McWhorter, Program Specialist
Marva Chambers, Secretary

VISITORS

Allen Adams, DHS - Office of Adult Services

Phillip Lancaster called the meeting to order. Introduction of Council members showed a quorum was present.

Approval of Agenda

Lauren Swanson requested that Linda Lawther's letter of testimony to the Senate Appropriations Subcommittee on Human Services on behalf of the Council and an update on drafting revisions of the Family Home rules be added to the agenda.

Linda Lawther made a motion to approve the agenda as modified. Lauren Swanson seconded the motion. Motion passed.

Approval of Minutes - February 20, 2008 Meeting

Cynthia Farrell made a motion to approve the minutes as written. Linda Lawther seconded the motion. The February 20, 2008 minutes were approved as written.

Division/Bureau Updates - Deborah Wood

Staffing Issues - Deborah referred to a handout showing staff by Division and field offices.

Six vacant consultant positions have been backfilled. All new consultants have completed training and have a full caseload. One Area Manager position was also backfilled to cover our Wayne County staff.

A request will also be made to backfill positions vacated by a consultant and an Area Manager both retiring the end of June.

The Governor also approved 12 additional FTE's for BCAL in the 2008-09 budget. The Senate cut the number back to 7. Deborah said these additional positions may have been the result of the Council's letter to the legislators and the Council bringing the need for additional staff to the attention of the Department of Human Services Director. Deborah expressed her thanks to the Council for their support. Currently the Division has 49 adult foster care and 6 home for the aged field staff.

Focused Onsite Renewal Inspection (FORI) Update -. A copy of the questionnaire that must be completed by the facility after the FORI in order to be eligible for the next FORI, was provided along with a spreadsheet indicating responses to the questionnaire. Deborah reviewed and reported the following:

- Positive feedback has been received by the person in charge at the time of the FORI.
- Contrary to staffs' initial concern that the FORI might take longer than the standard renewal inspection, does not appear to be the case according to feedback on the questionnaire, and as reported by consultants.
- Of the 75 adult foster care facilities that have been determined eligible thus far, 25 were reverted to standard renewal inspections.
- No home for the aged facilities have had a focused onsite renewal inspection yet.

Notice of Finding Update - Deborah provided a list of rules cited for the period 12-07 thru 4-08, as previously requested by the Council.

Betsy Montgomery, Area Manager, presented a PowerPoint of the Notice of Finding process to the child daycare staff as a model for their consideration. All Divisions in the future may use the Notice of Finding process.

Background Check Statistics - Deborah gave a brief overview of the most current background check statistics handout. 86,730 employees have been entered on the Long Term Care Background Check as of 4/28/2008. Deborah said the background check system is continually being improved by MSU. It is a very good system and is being looked at as a model by other states.

Lauren Swanson reported that the National Report of the 7 states doing background checks scheduled to be released in March has been delayed until summer.

Deborah reported that 2 bills related to the background checks have been signed since the Council met in February 2008; SB 1161 (Act 123) amending PA 368 and HB 5894 (Act 135) amending PA 218.

Bills 1161 and 5894 change the deadline for exempt employees (employees who were working prior to 4/1/06) to be fingerprinted from April 1, 2008 to April 1, 2009. The delay allows time for DCH to arrange for alternative funding.

In the meantime, if an exempt employee changes employment, they will be required to be fingerprinted.

Division Statistics - Deborah Wood

The Division Activity Report and Special Investigation Performance Activity statistics were provided to the Council for their review and comparison to information provided at previous meetings. Deborah said activity remains stable, with an up and down that stays within range as the Division continues to focus on special investigations being completed timely.

Kathleen Murphy asked if foreclosures were having an impact on adult foster care facilities. Deborah responded that there have been a couple foreclosures since the beginning of the year. However, these facilities were having other financial problems. In the event of foreclosure, a license would not immediately be revoked if staff and utilities were being paid, and food being provided to residents.

Paul McClain said two Community Health homes under foreclosure are lease homes and they are being monitored.

Enforcement Issues - Deborah Wood

A code sheet and special investigation statistics for September 1, 2007 through April 30, 2008 were provided. A special investigation initiated within 5 days is considered timely but the staff's normal practice is 24 hours.

Lauren asked about the progress of drafting revised AFC Family Home Rules. Deborah reiterated the discussion and decision made at the last Council meeting that the Division would prepare and present an outline of the rulemaking process with a projected time frame to the Council, the Department of Human Services Administration and the Executive Office for approval before any activity would begin on rules.

Deborah presented to the Council the task of developing Technical Assistance for the Family Home Rules. She said the technical assistance provides guidance for licensees and consultants to better understand how to comply and enforce the rules.

The Council unanimously agreed to wait until the next meeting to make a decision whether to proceed with the development of Family Home Rule Technical Assistance.

Lauren provided history on process of rules passed in 1994. She said a combination of providers and consultants on the workgroup was beneficial and suggested ex-officio members be on the subcommittee when the Family Home Rules are reviewed.

Letter of Testimony to the Senate Appropriations Subcommittee -April 28, 2008

Linda provided a copy of the testimony she presented to the Senate Appropriations Subcommittee on April 29, 2008. Linda said she appreciated the opportunity to testify on behalf of the Council. Linda expressed regret that Phil Lancaster was unable to attend because of problems with his wheelchair and thanked Lacey Charboneau for attending.

Linda reported that it was an interesting hearing. Linda provided the Legislators with a copy of the letter created by the Council. All testimonies prior to hers were related to childcare and the money needed but she said someone needed to speak for the adults. Linda stated she was disappointed no questions were asked but they listened.

Lauren Swanson said she really appreciated Linda attending the hearing and presenting testimony. Lauren said this enforces the need for the Council to be represented at hearings.

Kathleen Murphy said agencies represented on the Council have been providing education to the public they serve and legislators that lack of adult foster care staff is a consumer protection issue and this in addition to Linda's testimony has been positive in getting approval to fill positions.

Linda asked Lacey her thoughts regarding the hearing. Lacey responded that the hearing was 2 hours in length. The children's needs overshadowed aged adults in that only 15 minutes was given for adults.

Phil Lancaster volunteered to draft a thank you and attach the testimony to be sent to Legislators. Phil will send the draft to the Council for their feedback before sending.

BUREAU OF FIRE SERVICES RULE COMMITTEE UPDATE - Deborah Wood

Deborah provided an update on the adult foster care fire safety rules for 7+. Deborah and Linda have been attending the workgroup meetings. The Bureau of Fire Services (BFS) is leading the workgroup to bring the AFC 7+ Fire Safety Rules up to National Fire Safety Standards.

The Council discussed fire drills and evacuations in adult foster care facilities and the need for the fire drill process to be reviewed.

Kathleen suggested a working committee be formed to make broad-based comments regarding evacuation and fire drills to present to the Council at the next meeting.

Lauren made a motion to form a working committee to create Public Policy for Fire Safety. Cynthia seconded the motion. Motion passed.

The following members volunteered to be on the committee: Lacey Charboneau, Kathleen Murphy, Phil Lancaster, and Lauren Swanson. Allen Adams was invited to be an ex-officio member.

Legislative Update - Tom McWhorter

Tom provided an update on legislation introduced since the last Council meeting in February that has relevance to adult foster care/home for the aged licensees or residents.

- SB 1288, amends the Michigan Penal Code, pertains to the financial exploitation of a vulnerable adult. This Bill adds a 15 year felony penalty for financial exploitation of an amount of \$50,000-\$100,000, or if the perpetrator has had 2 or more prior convictions for financial exploitation of a vulnerable adult. And adds a 20 year felony imprisonment for financial exploitation of an amount over \$100,000, or if the perpetrator has 2 or more convictions for financial exploitation of over \$50,000.
- SB 1289, amends the Code of Criminal Procedure to add, Embezzlement by agent of \$50,000 to \$100,000 or \$20,000 to 50,000 with prior convictions = 15 years imprisonment. And embezzlement by agent or more that \$100,000 or \$50,000 to \$100,000, with prior convictions = 20 years imprisonment.
- SB 1290, amends the Michigan Penal Code, for a person that fraudulently obtains the signature of another person with the intent to cheat or defraud, the monetary portion of the potential punishment is increased from \$5,000 to \$50,000. Note this felony offense also carries a possible 10 years maximum imprisonment as well.

- SB 1291, amends the Code of Criminal Procedure, 750.300a(1)(c), to revise the sentencing guidelines for a crime of obtaining a signature by fraud to exclude the reference "to financial document".
- SB 1292, amends the Revised Judicature Act of 1961, to permit a witness who is a vulnerable adult to present testimony in a courts proceeding via closed circuit TV or video recording.
- SB 1293, amends the Estates and Protected Individuals Code, to require forfeiture of inheritance by an individual that abuses, neglects or steals from a vulnerable adult.
- SB 1294, amends the Code of Criminal Procedure, changes sentencing guidelines for crimes against vulnerable adults, and allows for consecutive sentencing.
- SB 1295 and 1296, increases the maximum penalty from 5 to 15 years imprisonment, if the operator of an unlicensed facility causes the death of a vulnerable adult. These bills also provide an increased penalty for a caregiver who retaliates against a vulnerable adult.
- House Bills 6071 - 6084 - primarily amend the Mental Health Code to increase access to mental health services, of special interest to AFC/HFA's are the following:
- HB 6077, amends the Mental Health Code, the code requires that DCH give priority for services to individuals with "serious mental illness", this amendment provides a list of specific diagnoses that would be considered "serious".
- HB 6079, amends the Mental Health Code, to require that all CMH's have a standardized grievance review process. If an individual is denied services that they or their authorized representative can file a grievance and if not satisfied with the decision of the CMH, they can request that the grievance have an external review, which would have to be arranged by the CMH. The CMH's would have to submit an annual report to DCH regarding all grievances filed, which in turn would then be submitted to the legislature.
- HB 6082, amends the Mental Health Code, to post more info on the DCH web site regarding criteria for obtaining services, to require the CMH's to use uniform requirements for receiving mental health services, and to generally make services more readably available to the public.

- HB 6083, amends the Mental Health Code, to expand the definition of "a person that needs treatment".

You can go to www.legislature.mi.gov and enter the bill number for additional information, and to keep updated on the progress of the bills.

Deborah reported Senator Garcia introduced Senate Bill 1163 to amend Act 218 to allow a private residence to provide adult foster care to not more than 1 adult, without requiring licensure.

Deborah said this change is not out of line with surrounding states that allow care to be provided to up to 4 residents before requiring licensure. One concern has been that if the Department of Human Services is not licensing these arrangements, there is no oversight. Paul said that is also Department of Community Health's concern. However, if the person in care receives Medicaid, they would have a case manager who would be involved; a substitute bill is being created to address this issue.

Lauren requested that Public Comment be moved on future agendas to come after Introduction.

Cynthia moved to adjourn the meeting, Lauren seconded. The meeting was adjourned at 12:15 p.m. by Chair Phil Lancaster.

NEXT MEETING: Wednesday, August 20, 2008, 9:30 a.m, 7109 W. Saginaw, Conference Room 2-1

IF YOU ARE UNABLE TO ATTEND, PLEASE CALL MARVA CHAMBERS AT 517-373-8580